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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,373	11/16/2001	Paul England	MS1-954US	5760
22801	7590	11/01/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			WRIGHT, NORMAN M	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/993,373	Applicant(s) ENGLAND ET AL.	
	Examiner Norman M. Wright	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 4 and 6 is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


NORMAN M. WRIGHT
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>numerous (17 pgs)</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Applicant is advised that should claims 3-4 be found allowable, claims 3-4 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Claim 3, appears to have a generated key retrieved, inferring that it has been stored before it's use. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 6, the negative recitation regarding 'not having the key securely stored so that it can be retrieved by the new trusted core' is not understood. Especially since that is a feature of claim 4, upon which 6 depends. This is not clearly understood and requires correction.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-15, 17-21, 23-28, 30-32, 34-36, and 38, are rejected under 35 U.S.C. 102(e) as being clearly anticipate by England, U.S. Pat. No. 6,757,824, hereinafter '824.

As per claims 1-2 '824 teaches a client-side boot domains and boot rules for loading software components into a verified and trusted operating system comprising: receiving a request to upgrade/correct a current trusted core of an operating system (o/s), loading a new o/s, allowing the new core to access application data (figs. 2-5, 7A-7B, summary, col. 2, lines 19 et seq., col. 7, lines 58 et seq., col. 8, lines 1-12 et seq.). Allowing only if it can be verified as the expected trusted core/identify for o/s - boot block and certificates (col. 7, lines 47-55 et seq.).

As per claims 3-4, '824 teach identifying a digest of the new trusted core, having a key, retrieved by new core (figs. 1B and 7B-8B, col. 6, lines 1-19 and 40-65 et seq.).

As per claims 5-8, checking the trusted core, and saving a key if conditions are met (col. 7, lines 47 et seq.). As understood, '824 teach utilizing a generated key (gatekeepers storage key, and a subset of data for securely storing applications/ for sealing and unsealing secrets (col. 10, lines 55 et seq. – col. 11, lines 10 et seq.). The

generated key/secret/ identity is utilized as part of the encryption to securely store applications for use after upgrading (col. 12, lines 25 et seq.).

As per claim 9, allowing the new trusted and trusted cores to obtain keys used for securely storing application data (col. 11, lines 1-5 et seq.).

As per claims 31-32, 34-36, and 38, they recite similarly rejected claims features accordingly see above for the specifics of the rejection.

As per claims 10-15, 17-21, 23-24 they distinguish over rejected claims 1-9, by reciting said computer method being contained on a computer readable media having instructions contained therein (see col. 2, lines 57 et seq., col. 5, lines 45 et seq.).

As per claims 18-21, 23-24, '824 teach the use of random numbers/ nonce as part of the authentication and verification process (col. 7, lines 58 et seq.). He also teaches a method of allowing the key to be calculated by the new trusted core but not vice versa (see cols. 7-8). He teaches sequential identifying new trusted cores for updates (col. 7, lines 57 et seq.).

As per claims 25-28, and 30, they distinguish over previously rejected method of claims 1-21 and 23-24 by reciting a system. '824 teach a system for performing said method of claims 1-21 and 23-24, having a processor, a memory, a digest, and keys (see '824 at figs. 1-2).

5. Claims 35-43 are rejected under 35 U.S.C. 102(e) as being clearly anticipate by England, U.S. Pat. No. 6,327,652, hereinafter '652.

6. As per claims 16, 22, 29, 33, 35-43, '652 teaches loading and identifying a digital rights management system operating system comprising: a method, system and

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computer readable media having an encrypted gatekeeper storage key, a trusted core operating system 'o/s', computing device, store secrets for applications, obtaining the decrypted gatekeeper storage key, a digest of a new trusted core, generating a new gatekeeper storage key, upgrading applications, identifying a digest, another trusted core, a temporary gatekeeper storage key, a subset of data, a [comparison] of same digest, readable media, a set of keys, a first key, a second key, additional keys, generate temporary/ ephemeral keys, a concatenation operation of a value , key, and trusted core number, and hashing. See (abs., sum. et seq., figs. 1A-8, figs. 10-11, col. 3, lines 65 – col. 4, lines 40 et seq., col. 5, lines 45-56 et seq., col. 7, lines 45 et seq., cols. 8-10, col. 11, lines 30- col. 12, lines 64, cols. 13-14, col. 15, line 29- 66 et seq., col. 16, lines 35-67, and col. 17, lines 1- col. 18, lines 33 et seq.).

Alternatively and additionally, '652 teach the limitations found in claims 1-15, 17-21, 23-28, 30-32, 34-36, and 38, he teach a client-side boot domains and boot rules for loading software components into a verified and trusted operating system comprising: receiving a request to upgrade/correct a current trusted core of an operating system (o/s), loading a new o/s, allowing the new core to access application data. Allowing only if it can be verified as the expected trusted core/identify for o/s - boot block and certificates, identifying a digest of the new trusted core, having a key, retrieved by new core, checking the trusted core, and saving a key if conditions are met, utilizing a generated key (gate keepers storage key, and a subset of data for securely storing applications/ for sealing and unsealing secrets/applications, where the generated key/secret/ identity is utilized as part of the encryption to securely store applications for

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use after upgrading, allowing the new trusted and trusted cores to obtain keys used for securely storing application data, said computer method being contained on a computer readable media having instructions contained therein, the use of random numbers/ nonce/seed value/ sentinel, as part of the authentication and verification process, allowing the key to be calculated by the new trusted core but not vice versa, sequential identifying new trusted cores for updates, a system for performing said method of claims 1-21 and 23-24, having a processor, a memory, a digest, and keys, see above paragraph 6 for the specifics.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norman M. Wright whose telephone number is (571) 272-3844. The examiner can normally be reached on weekdays, from 8AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Norman M. Wright
Primary Examiner
Art Unit 2134

nmw